

CITY OF NEWARK

PURCHASING MANUAL

ESTABLISHED 2024



TABLE OF CONTENTS

SECTION 1	INTRODUCTION & MANUAL PURPOSE	1
1.1	OVERVIEW	1
1.2	PURPOSE	1
1.3	SCOPE	2
1.4	THE PURCHASING DIVISION'S FUNCTION	2
1.5	SEPARATION FROM FINANCE	3
SECTION 2	PURCHASING BASICS & PROCUREMENT GUIDELINES	4
2.1	PURCHASING ETHICS	4
2.2	AUTHORIZED PERSONNEL	4
2.3	ENDORSEMENTS	4
2.4	PERSONAL PURCHASES	5
2.5	EMPLOYEE GIFT POLICY	5
2.6	ADHERENCE TO THE PURCHASING MANUAL AND PURCHASING POLICIES	6
2.7	PURCHASING RECORDS	6
2.8	BLANKET PURCHASE ORDERS & NON-BLANKET BUYING REQUIREMENTS	7
2.9	OFFICE SUPPLIES, PARTY SUPPLIES, & IT EQUIPMENT	7
2.10	EMERGENCY PURCHASING	9
2.11	PROCUREMENT PLANNING	9
2.12	END-OF-YEAR PROCUREMENT	10
2.13	LOCAL BUYING	10
2.14	TAXES	11
2.15	PUBLIC ACCESS TO PURCHASING INFORMATION	11
2.16	PROCUREMENT OF SUSTAINABLE MATERIALS	12
2.17	STANDARDIZATION OF PURCHASING FORMS AND CORRESPONDENCES	12
2.18	STATE OF DELAWARE, NC COUNTY, AND OTHER PUBLIC CONTRACTS	12
2.19	PETTY CASH	13
2.20	MISSING RECEIPTS	14
2.21	CHECK REQUESTS	14
2.22	BUSINESS TRAVEL REQUESTS	15
2.23	SAFETY EQUIPMENT REQUISITION	15
2.24	DELIVERY AND INSPECTION	16
2.25	DISPOSAL OR SALE OF SURPLUS GOODS	17
SECTION 3	PURCHASE REQUISITIONS, PURCHASE ORDERS, & INVOICE PROCESSING	20
3.1	PURCHASE REQUISITIONS	20
3.2	SPECIAL PURCHASE REQUISITION REQUIREMENTS	21
3.3	PURCHASE ORDERS	22
3.4	INVOICE PROCESSING	22
3.5	ELECTRONIC FUND TRANSFER (EFT) & VENDOR SETUP	23

SECTION 4	CREDIT CARD USE AND MANAGEMENT	25
SECTION 5	REQUESTS FOR QUOTATIONS (RFQs) & PURCHASING THRESHOLDS	26
5.1	REQUEST FOR QUOTATIONS PRACTICES AND APPLICATIONS	26
5.2	PURCHASING METHOD VALUE THRESHOLDS	27
SECTION 6	INVITATIONS TO BID (ITBs)	29
6.1	DEFINITION AND USES	29
6.2	ITB DOCUMENT REQUIREMENTS AND PROCESS	29
6.3	ITB ITEMS	30
6.4	BIDDERS LIST	32
6.5	ADDENDA	32
6.6	BID OPENING	32
6.7	AWARDING AND EXECUTING A CONTRACT	33
6.8	CHANGE ORDERS	33
6.9	PREVAILING WAGE/DAVIS-BACON REQUIREMENTS	34
SECTION 7	REQUESTS FOR PROPOSALS (RFPs)	35
7.1	DEFINITION AND USES	35
7.2	PROFESSIONAL SERVICES PROVISIONS IN STATE LAW	35
7.3	RFP DEVELOPMENT PROCESS	36
7.4	RFP ITEMS	36
7.5	BIDDERS LIST	39
7.6	ADDENDA	39
7.7	PROPOSAL OPENING	39
7.8	AWARDING AND EXECUTING A CONTRACT	40
7.9	CHANGE ORDERS	40
SECTION 8	WAIVING THE BID PROCESS	41
8.1	OVERVIEW	41
8.2	BID WAIVE CRITERIA OUTLINED IN CITY CODE	42
SECTION 9	CITY COUNCIL PROCUREMENT RECOMMENDATION CHECKLIST	43
SECTION 10	CYBER SECURITY & LIABILITY INSURANCE COVERAGE	45
10.1	OVERVIEW	45
10.2	VENDOR CYBER SECURITY REQUIREMENTS	46
10.3	LIABILITY INSURANCE RISK MATRIX	46

SECTION 1: INTRODUCTION AND MANUAL PURPOSE

1.1 OVERVIEW

The City of Newark Purchasing Division of the Administration Department prepared this Purchasing Manual to provide each City department detailed explanations of the City's procurement processes and operations by outlining purchasing policies, procedures, and best practices. Many of the City's purchasing policies and procedures are inspired or shaped by the State of Delaware Code on public procurement.

Effective, efficient, and transparent purchasing requires close cooperation between the Purchasing Division and all other City departments. While the Purchasing Division monitors all City purchasing operations on a daily basis and will typically catch policy discrepancies before improper purchases are made, the best way to streamline the City's procurement process in a way that ensures policy adherence is to understand these policies and follow procedure at all times. As such, this manual shall serve to improve City staff and select contractors' understanding of purchasing requirements and serve as a tool for employees and vendors throughout the procurement process.

Updates or modifications will be made to this manual as required, creating a living document and ensuring that this manual continues to provide the necessary information and guidelines for each department of the City of Newark to follow. At a minimum, this manual shall be reviewed by both the Administration and Finance Departments on a biannual basis to confirm its relevancy and usefulness for the City, its residents, and those with whom it conducts business.

For this manual to be as useful to the reader as possible, please use the table of contents above or the CTRL + F keystroke function to find the content you are looking for. Digesting the information herein at once may be difficult, so an a la carte reading approach is recommended. The Purchasing Division is available to refer employees to the applicable section they need as requested.

1.2 PURPOSE

The purpose for the adoption of this manual is to ensure compliance with City purchasing procedures by all City departments and vendors. Adherence to the policies set forth in this manual will:

- Ensure the City is maximizing public funds through the procurement of equipment or services;
- Maintain a procurement system based on quality and integrity;

- Provide effective and timely purchasing functionality necessary for City business; and
- Guarantee fair and equitable treatment of all people involved in public purchasing by or with the City.

Furthermore, this manual will act to create a uniform system for contract development, other procurement activities, and purchasing-related staff recommendations to City Council. Through adherence to uniform rules, best practices, and templates; City staff will be able to streamline purchasing-related actions and make the procurement process easier for vendors, residents, and City Council. Such efficiency allows staff to devote additional time elsewhere, which improves time and resource availability for other projects and consequentially provides improved customer service to Newark residents.

1.3 SCOPE

The scope of this manual aims to apply to every inquiry or expenditure of public funds by the City, regardless of the funding source. When a procurement or disposition of any value involves federal or state assistance or funds, and is also subject to federal or state regulations, the procurement or disposition shall additionally be conducted in accordance with any applicable mandatory federal or state laws/regulations that may or may not be referenced in this manual. Nothing in this manual shall prevent the City from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

1.4 THE PURCHASING DIVISION'S FUNCTION

The City of Newark Purchasing Division functions to manage the process of acquiring goods and services necessary for the City to carry out its functions and responsibilities to Newark residents. Some of the specific functions of the Purchasing Division are:

Function	Explanation
Develop procurement policies and procedures	The Division is responsible for developing policies and procedures that govern the procurement process for all City departments, which ensures that the City complies with all relevant laws and regulations and makes good use of public funding.
Ensuring compliance	The Division is responsible for ensuring that all procurement activities comply with relevant laws and City policies as well as following up to address discrepancies as needed.
Receiving invoicing for payment	The Division is responsible for receiving all vendor invoices, confirming departments have approved the purchases, and submitting the invoices to Accounts Payable for processing.

Conducting market research	The Division is responsible for ensuring departments have adequately conducted market research to identify potential suppliers and find the best value for the City.
Managing supplier relationships	The Division is responsible for ensuring departments maintain positive relationships with appropriate vendors to guarantee vendors deliver goods and services on time, deliver goods and services at the agreed-upon terms, and continue to provide excellent service to the City.
Soliciting bids and proposals	The Division is responsible for soliciting bids and proposals from bidders on formal bid processes, as well as evaluating proposals on the basis of price, quality, delivery time, etc.
Negotiating contracts	The Division is responsible for ensuring departments have assured the terms and conditions are favorable to the City before issuing a purchase order and following up as necessary.

1.5 SEGREGATION FROM FINANCE

The Purchasing Division is positioned within the Administration Department. While tied very closely to financial functions, the Division is segregated from the Finance Department for the following reasons:

Reason	Explanation
Preventing conflicts of interest	When the same department is responsible for both procurement and finance, there is an implicit risk that the people making purchasing decisions will prioritize their own financial interests over the best interests of the City. Separating these functions creates a system of checks and balance that help prevent such occurrences.
Ensuring transparency	Separating procurement and finance makes it easier to guarantee transparency and accountability in the procurement process. When adding extra parties in the approval workflow for given purchases, there is less opportunity for individuals or groups to hide questionable or unethical practices.
Enhancing efficiency	By separating procurement and finance, both departments can focus on their own core functions and responsibilities, leading to more efficient and effective operations. This can result in cost savings and improved service delivery.
Improving risk management	Procurement and finance both involve financial transactions and carry some level of risk. Separating these functions allows the City to better manage risk by having dedicated teams responsible for identifying, assessing, and mitigating risks associated with each function.

SECTION 2: PURCHASING BASICS & PROCUREMENT GUIDELINES

The following guidelines are administrative, ethical, and procedural purchasing rules that must be followed by all departments:

2.1 PURCHASING ETHICS

Making ethical decisions throughout the purchasing process is the best way to ensure public funds—money provided to the City primarily by the residents and customers for whom the City is responsible—are utilized in the best interest of the City of Newark. Unethical purchasing decisions can result in misuse of departmental funds, loss of public trust, and possible legal or financial ramifications. As such, maintaining ethical, transparent, and effective purchasing standards allow departments to streamline purchasing in a productive and legal manner. Additionally, to further Newark's commitment to sustainability, as outlined in the [Newark Community Sustainability Plan](#), additional effort should be made during the procurement process to ensure that vendors using sustainable materials and/or practices are primarily considered.

2.2 AUTHORIZED PERSONNEL

Each department is responsible for maintaining and reporting to the Purchasing Division and Finance Department who their authorized personnel is/are for the procurement of goods and services. Any purchase made by an unauthorized employee is subject to rejection and discipline of the employee.

While departments have designated personnel for procurement-related activities, the Purchasing Division is always available to provide advice or assistance. For contracts of significant value, the Purchasing Division must always be included in any contract review prior to signing an agreement or committing to a purchase regardless of who is authorized for procurement activities at the individual department level.

2.3 ENDORSEMENTS

It is City policy NOT to outwardly endorse any specific product or vendor. Therefore, no City employee's name or position, nor the City's name itself, can be used and advertised as supporting a certain product or vendor without the city manager or their designee's expressed written approval. Contractor reference requests for outside bids or other reasons will be handled by the department heads for whom the vendor in question completed the work. References should be limited to a vendor's actual performance as it related to customer service, delivery, and/or product efficiency or effectiveness.

2.4 PERSONAL PURCHASES

Purchases by employees for personal use are prohibited by the City, unless it is in recognition of employee appreciation or years-of-service awards, which are approved by the city manager or their designee in advance. Purchases of work/safety apparel for staff are authorized on a seasonal basis or as needed with the initial approval of department directors, or as outlined in labor groups' collective bargaining agreements. More information on safety equipment can be found in Section 2.23 below.

2.5 EMPLOYEE GIFT POLICY

Chapter 2, Article IX, Division 7, Section 2-97.14 of the Municipal Code for the City of Newark strictly prohibits the acceptance of any gift of value by all employees:

“No councilman or other city official or employee shall accept any valuable gift, whether in the form of service, loan thing, or promise, from any person, firm, or corporation which to his knowledge is interested directly or indirectly in business dealings or in any manner whatsoever with the city; nor shall any such official or employee (1) accept any gift, favor, or thing of value that may tend to influence him in the discharge of his duties, or (2) grant in the discharge of his duties any improper favor, service, or thing of value.”

Should a gift be received by the City of Newark from a vendor for any reason (e.g., gifts for personal life events, holiday gift baskets, non-working meals, etc.), the gift shall either be returned or be made available to all City employees. For example, if a vendor provides a gift basket to a specific department or if a vendor wishes to outline specific benefits through a catered lunchtime “Lunch and Learn” meeting, such goods or lunch shall be offered to all applicable employees to reduce the individual materiality of such a gift. Any accepted gift on an individualized basis is considered a bribe and will be treated as such through City disciplinary channels and applicable law enforcement agencies. More information on employee gift policies is distributed by Human Resources annually.

Employees and appointed officials must not become obligated to any supplier or firm and shall not conduct any City purchasing transactions wherein they may receive personal benefit. Should any purchase request be flagged as potentially inappropriate for influential or other reasons, such purchase shall be reviewed and investigated by the City Manager’s Office in detail before approval.

2.6 ADHERENCE TO THE PURCHASING MANUAL AND PURCHASING POLICIES

The City Purchasing Manual acts to improve uniformity in procurement-related activities by all departments, as well as establish best practices for staff to follow, which reduces financial risk to the City and ensures productive use of public funds. Subsequently, any action taken by City departments to bypass or otherwise disregard City purchasing guidelines through requests for quotes (RFQs), Requests for Proposal (RFPs) or Invitations to Bid (ITBs) development, or other procurement activities is considered unethical and out of compliance with City policy.

The Purchasing Division operates to help staff prepare and execute procurement initiatives. As such, the Purchasing Division should be appraised of any and all noteworthy purchasing actions. Excluding the Purchasing Division during such processes should be avoided.

Additionally, all bids, proposals, and quotations submitted to the City of Newark shall comply with all applicable local, state, and federal laws and regulations. No department shall subdivide or otherwise circumvent proper procedure to avoid the requirements of the Code of the City or Newark purchasing policy. Any employee in any department found to be in violation of this policy will be subject to disciplinary action.

2.7 PURCHASING RECORDS

When purchasing goods and services for the City, information pertaining to each specific purchase must be documented. Purchasing records must be retained by the City for the period prescribed in the Delaware State Bureau of Archives Retention Schedule. Additionally, record-keeping helps the Purchasing Division and Finance Department quickly find information when there is a question regarding late fees, duplicate purchases or invoices, payment authorization, and so on. Consequently, keeping proper records is both helpful to City staff and required by law.

While the City's utilization of Municipal Information System (MUNIS) and Tyler Content Manager (TCM) automates several of these record-keeping processes for City staff by noting who requests purchase requisitions in MUNIS and saving purchase orders and receipts/invoices in TCM, there are still additional steps staff can take to ensure proper record-keeping. These steps include, but are not limited to, attaching vendor quotes/bids and approved Council contract award/bid waive recommendation memos to purchase requisitions when available; adding purchase summaries/descriptions on receipts or invoices, if not immediately apparent; and maintaining and monitoring a list of staff members with purchasing capabilities.

2.8 BLANKET PURCHASE ORDERS AND NON-BLANKET VENDOR BUYING REQUIREMENTS

Blanket purchase orders are acceptable for vendors from whom many routine purchases are made. Blanket purchase orders are established annually in lieu of issuing individual orders for each frequently requested purchase. Simply put, any vendor placed on the Blanket Vendor List, which lists the vendors who have blanket purchase order applicability, do not need to go through the MUNIS purchase requisition process for purchases below the fixed blanket purchase amount designated by the Purchasing Division. The Purchasing Division shall determine which vendors shall be placed on the blanket purchase order list for a given year. A list of vendors and purchase amount limits, when applicable, are noted on the Blanket Vendor List, which the Purchasing Division distributes to each department annually. The Blanket Vendor List can be found in Appendix A.

Except for the select few vendors outlined on the annual Blanket Vendor List, purchase requisitions are required for ALL City purchases. Any purchase without a purchase requisition through a vendor not listed on the Blanket Vendor List is out of compliance with City policy. However, any purchase to any vendor up to \$300 paid via a City Fulton Bank credit card (i.e., through Credit Card Services – DNB (vendor number 7994)) is permissible as long as the purchase conforms to other purchasing policy provisions.

All purchases under \$2,500 made by the Maintenance Division of the Public Works & Water Resources Department for vehicles or equipment are treated as blanket purchases. Purchases between \$2,500 and \$5,000 (excluding tires) must have the PWWR director's (or their designee's) authorization prior to purchase; purchases over \$5,000 require purchase requisitions.

2.9 OFFICE SUPPLIES, PARTY SUPPLIES, AND INFORMATION TECHNOLOGY EQUIPMENT

A. GENERIC ANNUAL OFFICE SUPPLIES PURCHASE ORDERS

Purchase orders (POs) specifically for office supplies (from Amazon Business, etc.) are approved at the beginning of each year and are typically authorized with less information available than other POs due to the uncertainty regarding what will be needed throughout the year. However, purchases charged against these POs shall only be for general, consumable office supplies (pens, paper, post-it notes, etc.). Any orders beyond consumable supplies placed on these POs without advance approval from the Purchasing Division and Finance Department will be deemed inappropriate purchases and may require returning the products or reimbursing the City. In general, office purchases that are not for consumable products should go back through the

purchase requisition process to verify appropriateness in advance of the order and keep these purchases distinct from consumable office supply purchases.

B. PLATES, SILVERWARE, AND OTHER OFFICE PARTY SUPPLIES

Supply purchases for office parties or other gatherings are typically not allowable per Purchasing policy. Advance approval must be received from the Purchasing Division and Finance Department before purchasing party supplies using City funds. Such purchases are generally not for City business and therefore ineligible for payment through the City. If departments wish to hold parties that require these consumable party supplies, each department shall be responsible for purchasing associated goods using personal or pooled funds from employees in the department. The exceptions to this rule exists only for (1) employee appreciation events held for all City employees coordinated by or with approval of the City Manager's Office and (2) at-work employee retirement or promotional celebrations/ceremonies if approved by or coordinated with the City Manager's Office and open to all employees who would like to wish the retiring or promoted employee well in their next endeavor.

C. EMPLOYEE CONDOLENCE/"GET WELL SOON" PURCHASES

If an employee experiences a major medical event, on or off the job, or loses an immediate family member (as defined in the employee's collective bargaining agreement), the employee's department director may authorize the purchase of a "get well soon" or condolence item for the employee. Such a purchase shall be reasonably priced for the specific instance and confirmed as appropriate with the Purchasing and Human Resources Divisions prior to purchase.

D. INFORMATION TECHNOLOGY EQUIPMENT/SUPPLIES

With few exceptions, City employees must use information technology provided by the Information Technology (IT) Division of the Finance Department as part of their daily functions. As such, employees shall not use City funds for any additional, modified, and/or upgraded IT equipment without the direct consent and involvement of the IT and Purchasing Divisions. Simply put, no IT equipment (keyboards, monitors, tablets, etc.) shall be purchased by any department without the IT and Purchasing Divisions' advance approval. The IT Division has an annual budget for such equipment as well that is distinct from departments' office supply budgets, and, as such, should typically be the primary procurer of IT equipment for all City employees.

2.10 EMERGENCY PURCHASING

City Code Chapter 2, Article II, Section 2-24 outlines the city manager's authority over procurement in emergency situations for purchases above the purchasing method value thresholds noted in City Code and outlined in Section 5 of this manual:

"In case of accident or an emergency, the city manager may, with the consent of the council, award contracts and make purchases for the purpose of repairing damages caused by accident or meeting the public emergency; but he shall promptly file with the council a certificate showing the emergency and the necessity for such action, together with an itemized account for all expenditures."

In other words, while it is recommended that all purchases be planned as properly as possible for the ethical and responsible expenditure of City funds, circumstances will arise that warrant circumventing normal procedure to address emergency situations. In such an instance, the city manager must approve of the department's decision to process an emergency purchase. Additionally, if the emergency purchase exceeds the formal Invitation for Bid (ITB) or Request for Proposal (RFP) price thresholds outlined in Section 5, the city manager and department director requesting the emergency purchase must report to City Council as soon as feasibly possible following the emergency purchase to outline the emergency, how it was addressed, how much the emergency cost the City, and where such funding will come from in the budget.

2.11 PROCUREMENT PLANNING

Planning for purchases should be conducted on both short- and long-term bases. Small orders and last-minute purchases should be minimized whenever possible, thereby increasing the capability of each department to purchase its goods and services in larger quantities to obtain the maximum number of discounts available. While emergency purchases cannot be planned, this general guideline will reduce overspending of public funds by receiving bulk discounts and other vendor offerings.

Procurement planning will also assist in the reduction of clerical and supervisory time spent documenting and authorizing individual purchases. Remember: the procurement process begins with the annual budget—all bulk and strategic purchases should be conceptualized as soon as possible to determine budget availability and inventory needs.

Last minute purchase requests that are tardy due to departmental error or poor time management may (and likely will) be denied by the Purchasing Division. It is not the responsibility of the Purchasing Division to make up lost time during the procurement

process on the part of individual departments. Purchase requests that bypass the standard procurement process due to departmental mismanagement are unacceptable and are subject to denial until proper procedures are followed.

When warranties are included in a specific purchase, the department requesting the material or service shall monitor and maintain all warranties as a secondary planning step in the procurement process.

2.12 END-OF-YEAR PROCUREMENT

At the end of each November, the Purchasing Division and Finance Department coordinate to halt all departments' purchase requisition entries. Emergency purchase requisitions can still be placed during this period, but only with the advance approval of both Purchasing and Finance. Among other things, this process limits the amount of goods and/or services departments buy for the following fiscal year that are charged against the budget for the current fiscal year. While mid-November purchases for needed goods or supplies (for which a department first needed to see if budgetary constraints would allow for procurement) are permissible, buying supplies simply to avoid costs in the next fiscal year is unethical from a purchasing and accounting standpoint. The budgets for each fiscal year are crafted to account for goods and services bought for that fiscal year, not to lessen costs in future fiscal years. The only exception to this guideline is any end-of-year purchase specifically directed by the city manager or City Council or inventory purchases that do not immediately impact the City's budget upon purchase.

2.13 LOCAL BUYING

Whenever possible, City staff should strongly consider purchasing goods or services from Newark, Delaware, or otherwise local vendors. The likelihood of receiving competitive prices from local businesses can be increased by ensuring local vendors that provide goods or services required by the City are included in the competitive shopping process that precedes most purchases (i.e., they are added to the bidder's list for Invitations to Bid (ITBs), Requests for Proposals (RFPs), or Requests for Quotations (RFQs)). It is therefore the responsibility of each department director (or a designee of their choosing) to research applicable vendors ahead of procurement decisions.

However, the City has a responsibility to its residents to obtain the maximum economic value for each public dollar spent, which often cannot be achieved through local buying alone. For the purposes of this manual, economic values shall be defined as a combination of explicit/monetary values (overall cost) as well as implicit/intangible value (worth or longevity of a good/service, sustainability, opportunity cost, etc.). As such, obtaining the

optimal economic value for the maximum goods or services should always be the priority from a purchasing standpoint, regardless of a business' location. A calculation pertaining to how a department determined economic value for a specific purpose may be required by the City Manager's Office before authorizing a purchase.

For items priced greater than \$10,000 but under the sealed bid threshold of \$50,000 (the range at which more than one quote is required), vendors that have a current City of Newark business or contractor's license shall be granted the opportunity to match the lower quote of any vendor that does not have a current City of Newark business or contractor's license, as long as the licensed business can provide the proper goods or services and has not previously failed to satisfy contractual obligations with the City or other governmental entities in Delaware or the greater Delaware region. For "public works" purchases, the same principles hold true, but for items priced greater than \$25,000 and up to \$100,000.

2.14 TAXES

The City of Newark is exempt from Delaware state sales and use taxes as well as federal excise taxes. However, this is not always the case with other states' sales and use taxes. The Purchasing Division, upon request, can apply for a consumer's certificate of sales tax exemption through another state's Department of Revenue (or equivalent agency). No department shall confirm with an out-of-state vendor that the City of Newark is tax exempt without first confirming with the Purchasing Division and Finance Department. Tax exemption certificates for vendors will be provided to departments by the Purchasing Division once tax exemption status is confirmed.

2.15 PUBLIC ACCESS TO PURCHASING INFORMATION

Procurement information (e.g., purchase orders, bid offerings) are publicly recorded and available to residents, vendors, media outlets, or any other requestor, typically through a Freedom of Information Act (FOIA) request. All applicable ITB or RFP information shall also be posted to the City's website at www.newarkde.gov/bids. If specific portions of City ITBs, RFPs, and/or RFQs are considered confidential for financial, security, or other reasons, it shall be the duty of the department requesting quotes to separate such information from the standard bid document before these documents are posted publicly (e.g., tell bidders to reach out for certain pages, information to be approved by the City, etc.).

2.16 PROCUREMENT OF SUSTAINABLE MATERIALS

When economically feasible, publicly safe, and strategically reasonable, the City of Newark commits to purchasing goods made of sustainable materials or using sustainable energy sources, such as office supplies made of recycled products and replacement of fleet vehicles with electric models. Environmentally detrimental products (e.g., Styrofoam cups, plates, or bowls; single-use plastics; internal combustion engine vehicles) should only be purchased by City employees for workplace use if alternatives are deemed unreasonable at the time of purchase.

2.17 STANDARDIZATION OF PURCHASING FORMS AND CORRESPONDENCES

All purchasing-related documents (e.g., purchase orders, Invitations to Bid (ITBs), and Requests for Proposals (RFPs)) are standardized and reviewed by the City of Newark Purchasing Division prior to issuance to ensure proper compliance with City and State regulations. No substitution to these forms will be permitted.

Additionally, on formal ITB and RFP processes, no correspondence with vendors other than through the Purchasing Division's email address (contracts@newark.de.us) is permitted. No contractor claims that correspondences with other City staff led them to a decision will be honored.

The only distinction to these procedures are for Requests for Quotations (RFQs), as these are typically less costly than formal bidding processes and therefore can be led by the departments themselves. The Purchasing Division should be looped in on all RFQs as well as quotations received, however. See Section 5 for more information.

2.18 STATE OF DELAWARE, NEW CASTLE COUNTY, AND OTHER PUBLIC CONTRACTS

It is best practice to keep informed about State of Delaware and New Castle County contracts. These contracts can be viewed at contracts.delaware.gov and bids.nccde.org, respectively. Other applicable contracts can be found from the Sourcwell/National Joint Powers Alliance (NJPA) website (www.sourcwell-mn.gov) and the National Cooperative Purchasing Alliance (NCPA) website (www.ncpa.us).

Whenever in the best interest of the City, staff shall utilize standing state or New Castle County contracts, which the City can join into. Since the costs associated with putting together ITBs and RFPs—labor, advertising, time—can be substantial, and larger government entities may potentially be able to receive better prices than any individual

municipality, joining applicable existing ITB/RFP contracts is advantageous from multiple perspectives. See Section 8 for more information on using existing contracts to waive the bid process.

While purchases made through state or New Castle County contracts are presented to City Council as bid waive recommendations, these purchases are subject to the same requirements as ITBs and RFPs put together by staff. For instance, bid waive recommendations between \$50,000 and \$100,000 (or between \$100,000 and \$150,000 for “public works” contracts) can be placed on the City Council consent agenda, while larger purchases must be presented formally to Council to receive approval. Please refer to the City Council Procurement Recommendation Checklist (Section 9) for other specifics regarding bid waive recommendations.

2.19 PETTY CASH

Petty cash funds are used to avoid the time and effort of issuing purchase orders for smaller purchases when other options are unavailable. There is an established procedure for City petty cash expenditures that is enforced by the Finance Department. Petty cash is solely intended to reimburse City employees for small purchases up to \$50.

However, it is important to remember that the use of petty cash is to be avoided when needed purchases can be purchased through existing agreements or other alternative purchasing options. Specifically, if a vendor exists in the City’s vendor database, it should be requested that the vendor invoice the City for any immediate goods or services needed instead of using petty cash. Also, credit card holders are authorized to spend up to \$300 per purchase without the need to issue a purchase order. Since the purchase maximum for petty cash use is \$50 per purchase, such purchases should always be placed on City credit cards unless the vendor does not accept credit cards or a card holder is unavailable when the purchase is needed.

The petty cash bank is consolidated at the end of each month and expenditures are charged to the appropriate department’s expense account. To obtain reimbursement, employees MUST present the purchase receipt as well as a petty cash voucher authorized by the employee’s department director (the Petty Cash Voucher Form can be found in Appendix B).

2.20 MISSING RECEIPTS

A missing receipt is in no way an acceptable reason for any department to not submit an invoice for payment to the Purchasing Division. If, after repeated attempts to receive another copy of a receipt or no receipt can be received for a specific purchase, the Missing Receipt Form (see Appendix C) must be completed and submitted to Purchasing in the receipt's place. Please note that Missing Receipt Forms must clearly note the amount of the missing receipt as well as the reason why the receipt is missing. All purchases are subject to additional follow up from the Purchasing Division and Finance Department, but missing receipts are more stringently reviewed to ensure proper procedure was used to correct the issue before moving forward with payment using a Missing Receipt Form.

2.21 CHECK REQUESTS

The City's policy is to minimize the use of check requests for purchases. Effective January 2021, check requests are limited only to employee or retiree reimbursements, or a small number of exceptional purchases. Examples of exceptions for which check requests can be issued are training sessions, travel expenses, conference reservations, refunds, service fees, certain membership dues, publications, payroll taxes, and select insurance premiums. While utilizing City credit cards may be able to mitigate invoicing issues, this will not be the case in every instance, which check requests may be able to address.

All check requests must be completed through the Request for Check function in MUNIS. Each request will go through the appropriate approval workflow. Following complete approval, the Finance Department will send payment to the denoted vendor via electronic fund transfer (EFT). If coupons are needed to accompany the generated check, staff requesting the check should inform the Finance Department at the time the check request is released into the approval workflow so that the check can be returned to the requestor instead of immediately placed in the mail or sent electronically.

Employee reimbursements for work-related expenses must include the receipt of payment showing the credit card used by the employee as well as a screenshot of the employee's purchase as shown on a credit card statement or banking phone application. Cash and gift card payments are not advised as it is more difficult to determine if it was the employee's money being allocated for the purchase—all employee reimbursement requests for cash or gift card payments are subject to Purchasing and Finance review and possible rejection to limit the possibility of fraudulent activity.

2.22 BUSINESS TRAVEL REQUESTS

As it relates to business travel requests, the City's goal is to allow for travel arrangements that conserve public funds while simultaneously supporting staff's needed training and associated travel. These regulations are applicable for all travel expenses incurred on behalf of the City by employees and elected officials.

Decisions are made during the annual budget process as to the amount of travel expenses allocated to each department for the fiscal year. There is no objection to a spouse and/or other family member traveling on an official trip with an employee, so long as such company does not impact the employee's purpose in the travel. If a family member travels with an employee on an approved trip, no expenses directly attributed to this family member will be reimbursed by the City.

All business travel requests are primarily routed through the Human Resources Division of the Administration Department. Each request will go through the appropriate approval workflow. Following complete approval of the travel reimbursement submission, the Finance Department will send reimbursement to the employee who traveled for work via electronic fund transfer (EFT). Please reference the City of Newark Personnel Manual for additional information.

While business travel requests are approved through the City Manager's Office outside of MUNIS applications, purchase orders should still be created for known travel costs and such payment should be made through City funds—flights, lodging, conference fees, etc. This will limit the amount of money each employee must expend themselves and encumber the funds in the appropriate budget account to avoid overspending while the travel request is pending.

2.23 SAFETY EQUIPMENT REQUISITION

The purchase of safety shoes and other equipment is denoted in labor groups' collective bargaining agreements. Safety equipment requisition forms are required for all such purchases. These forms must be approved by the employee's supervisor prior to purchase. A copy of the form must also be provided to the Purchasing Division to process payment. Prescription eyewear purchases must be authorized in advance by the Chief Human Resources Officer and is equally constrained by the above approvals and agreements. The Safety Equipment Requisition Form can be found in Appendix D.

2.24 DELIVERY AND INSPECTION

A. PARTIAL DELIVERIES

For purchase orders that have several line items, it is common for vendors to complete timely delivery of some items while others are left outstanding. If these partial deliveries can be used separately (i.e., not all items need to be in place at the same time to fulfill the full intent of the order), partial payments shall be authorized. However, if the separately received items are part of a system that requires all pieces in place to function, then partial deliveries are of no value to the City and payment will be withheld until the full delivery is complete.

B. DELINQUENT DELIVERIES

When departmental follow-up efforts have failed and deliveries have become delinquent, departments must make the determination to (1) authorize additional time for the delivery or (2) cancel the order and purchase from another source. Departments dealing with delinquent deliveries must consider the following when deciding which option to take:

- The operational needs and requirements of the City;
- Agreements with the vendor;
- Availability from other sources; and/or
- The delivery/lead time(s) associated with reordering from another source.

During times when supply chain issues or other market problems may extend delivery times for certain orders, departments should conduct extensive research on the purchase source prior to committing to a vendor via issuing a purchase order; if vendor references or reviews cause the department any hesitation, other sources should be more seriously investigated before committing to an order. Additionally, if department heads must sign an agreement with the vendor prior to the order, these agreements must be vetted carefully before signature to ensure the City's negotiating position is not compromised; assistance in agreement review can always be provided by the Purchasing Division. The City of Newark has an oath to provide services to residents in a timely and satisfactory manner; while staff cannot always be responsible for the operations of its vendors, any subpar research or review prior to procurement damages the City's ability to meet its goal for itself and the residents it is sworn to serve.

C. INSPECTION

Goods and services must be checked by appropriate staff at the time of receipt to detect any damage or defects and ensure the receipt of material/equipment is in compliance with contract documents or the purchase order. In addition to damage/defects, equipment and supplies should be inspected for quantity, quality, price, and all other required specifications noted at the time of order. Inspection must be conducted immediately upon arrival of goods or completion of services, or as soon as possible thereafter, to verify the vendor has successfully completed their responsibilities as outlined in the contract or purchase order; any delays in inspections on the part of City staff makes rectification of incomplete services or defective equipment more difficult.

D. ACCEPTANCE

The acceptance of equipment shall be the responsibility of the department that placed the order. Acceptance shall be conclusive, except for latent or unidentifiable defects and/or fraud. The use of received goods shall constitute acceptance by a department. All associated invoices and shipping documents should be signed by the recipient and provided to the Purchasing Division (purchasing@newark.de.us) for payment.

E. REJECTION

Rejection of received/delivered equipment, goods, and/or materials shall be documented by the department that placed the order and submitted to the Purchasing Division. The department that placed the order must inform the vendor that the order is rejected to allow the vendor the opportunity to (1) provide explanation for the discrepancy or (2) comply with the original specifications as outlined in the contract or purchase order. The Purchasing Division can provide assistance in this process for the ordering department upon request.

2.25 DISPOSAL OR SALE OF SURPLUS GOODS

A. OVERVIEW

In the event that the City has equipment, supplies, or materials of an estimated value of \$10,000 or less that become surplus or are slated for replacement, the city manager

may authorize the sale or disposal of certain goods, or transfer equipment between departments or to another governmental agency. For sale, transfer, or disposal of equipment, supplies, or materials valued at a level greater than \$10,000, City Council approval is required. As outlined in City Code, Chapter 2, Article II, Section 2-25, “the city manager may transfer materials, supplies and equipment between departments, offices and agencies, and may sell or otherwise dispose of the same, provided the value thereof does not exceed \$10,000.00. In all cases where the value of such materials, supplies or equipment exceeds \$10,000.00, prior approval of the council shall be obtained.”

B. METHODS OF DISPOSAL/SALE OF SURPLUS GOODS

The following are the approved disposal or sale methods for surplus goods:

- Transfer to other city departments
- Donation to another government agency
- Sale to the general public at auction (via www.municibid.com)
- Trade-in toward new/replacement equipment
- Discarding/junking (if the equipment is no longer of value or a safety risk)

C. REPORTING & AUCTION PROCESS

To properly secure and account for the City’s property, each department is responsible for completing the Equipment Disposal Form when dispensing of surplus equipment. This form must be submitted to the Purchasing Division for processing before any action related to the sale or disposal of equipment is completed. The Equipment Disposal Form for departmental use can be found in Appendix E.

When surplus equipment is sold, it is accomplished through a competitive auction that is open to the general public. Consistent with City Code, no City employee shall be given priority access to surplus supplies through direct sale without public auction; all employees must bid against the general public if they desire to obtain surplus goods that have material remaining value. The Purchasing Division will ensure that all legally required competitive practices (e.g., advertisement) are followed ahead of the commence of auction activities. Equipment being offered for sale at auction are reported to the Finance Department in advance with a full description of the items and associated serial numbers, if applicable. Following each auction, a report is developed outlining the items sold and the money received. The Purchasing Division handles the sale of all surplus equipment via the Municibid website.

Per Municibid requirements, all winning bidders must complete full payment to Municibid within five (5) business days after the close of the auction. Failure to remit payment by the deadline may result in forfeiture of the winning bid. To allow any mailed payments to reach Municibid, the City will grant up to ten (10) business days before requesting Municibid deem the bid forfeited. In cases of forfeiture, the City reserves the right to either offer the item to the next highest bidder or relist it for auction. Additionally, bidders must arrange for the pickup of purchased items no later than five (5) business days after submitting payment. Items not retrieved within this designated period may be subject to forfeiture without refund. For both payment and pickup deficiencies, the City will first request Municibid follow up with the winning bidder to expedite the process prior to pursuing bid or payment forfeiture.

SECTION 3: PURCHASE REQUISITIONS, PURCHASE ORDERS, AND INVOICE PROCESSING

3.1 PURCHASE REQUISITIONS

The purchase requisition establishes the need and provides justification for any equipment or service procured by each department as well as confirms there is funding available to complete the intended purchase. The purchase requisition must be completed in its entirety to include the purchase description/justification, quantity, price, account code for funding, vendor number, and any other specifications and shipping details. The Requisition Entry application in MUNIS allows for all these criteria to be input before releasing the requisition for approval. A MUNIS Purchase Requisition process walkthrough can be found in Appendix F.

The purchase requisition is not an order for the goods or services specified. It is a purchasing and budgetary tool to ensure the funding for the purchase(s) is earmarked for the reason specified; the rules and guidelines of the City Purchasing Manual, City Code, and applicable laws are being followed prior to the forthcoming purchase; and the correct approvals are provided before the time of purchase. Typical approvers for purchase requisitions through MUNIS are:

- The department director
- Finance Department
- Purchasing Division
- City manager

Each approver completes their workflow approval through MUNIS, with the exception of the city manager, who has the purchase requisitions for approval provided directly from the Purchasing Division. All approvers are responsible for forwarding their workflow for MUNIS approvals prior to leaving the office for extended periods of time; in the city manager's absence, the finance director shall provide final approval at this workflow step.

With the exception of purchases made to vendors on the Blanket Vendor List (see Appendix A), all purchases are required to be initiated by the completion of a purchase requisition. In other words, purchases cannot be made prior to the purchase requisition process or without adhering to the purchase requisition process. Failure to follow the requisition procedure will result in a review of the offending department's purchasing authority and may result in reporting to the city manager or Human Resources for additional disciplinary follow-up as needed. Purchases that are not approved via the purchase requisition process are a liability to the City as prior review is circumvented. Any

questions related to the purchase requisition process should be directed to the Purchasing Division before moving forward with a purchase to avoid making an inappropriate purchase.

3.2 SPECIAL PURCHASE REQUISITION REQUIREMENTS

Certain purchases require additional steps to process. Such purchases could have exceptional funding sources with additional requirements to use (e.g., federally funded projects requiring vendor's unique entity identifier (UEI) number for reporting purposes) or have additional compliance requirements consistent with Newark's audit process. For purchase requisitions with additional steps, departments entering purchase requisitions must include associated information with the purchase requisition at the time the requisition is released into approval workflow in MUNIS. All incomplete requisitions will be rejected by the Finance Department or Purchasing Division.

If a purchase requisition requires two or three quotes prior to purchase (see Section 5 for specifics), all quotes must accompany the purchase requisition. If a purchase requisition stems from a City Council-approved purchase recommendation from staff, the associated staff recommendation memo must also accompany the purchase requisition. Any accompanying documentation must be added to the purchase requisition as a TCM attachment through the Requisition Entry application in MUNIS.

As part of the Single Audit, the City's auditors must verify that Newark is not conducting business with companies that have exclusions, debarments, or suspensions noted against them by the Federal Government for all purchases against capital projects, using grant funding, and/or exceeding \$25,000 in total annual expended value. Consequently, for all purchase requisitions for capital projects, using grant funding, and/or over \$25,000, departments must show that they have checked for such exclusions with companies they aim to do business with BEFORE processing any payment to them. No invoice will be paid by the City of Newark against capital projects, using grant funding, and/or over \$25,000 unless an exclusion check was conducted prior to initiating a purchase to the vendor. Additional information on this process and how to complete a federal vendor exclusion check via www.sam.gov can be found in Appendix G.

3.3 PURCHASE ORDERS

A purchase order (PO) is an official and binding City of Newark contract for specified goods or services. It is generated after the full purchase requisition approval process is completed. The Purchasing Division will generate each PO through MUNIS and send copies to vendors and departments as needed.

Following the generation of a PO, departments can review the PO for coding purposes via the Purchase Order Inquiry MUNIS application. The PO can also act as Notice to Proceed (NTP) authorization for vendors, unless otherwise noted in contract documents or other written correspondences, which authorizes the vendor and department to formally coordinate the transfer of goods or commence services indicated.

Issuing POs is important to limit the City's liability for a given purchase. The vendor's acceptance of a PO confirms understanding and adherence to base contractual stipulations set forth by the Purchasing Division. Most notably, the acceptance of a purchase order ensures vendors agree to the City's Minimum Vendor Provisions for Purchases and Contractual Services outlined on the Purchasing Division's webpage (www.newarkde.gov/105/purchasing).

Any purchase made without a purchase order is subject to rejection by the Purchasing Division and further review of policy failure by the city manager and/or Human Resources. The only exception to this PO requirement is a purchase to a vendor noted on the Blanket Vendor List (see Appendix A).

3.4 INVOICE PROCESSING

When a department receives an invoice for supplies or services, the invoice shall be provided to the Purchasing Division as soon as possible. The copy submitted by the department to the Purchasing Division must include the PO number related to the invoice. If the purchase is made from a vendor on the Blanket Vendor List, the specific departmental budget account code must be provided in lieu of a PO number. A summary of what the purchase is for should be included if such information is not apparent from the invoice.

To expedite invoice processing, the Purchasing Division requests that vendors send invoices to the City via email. Emailed invoices should be sent directly to purchasing@newark.de.us. The Purchasing Division will reach out to specific departments for coding once the invoice is received, if not already apparent from the invoice itself. Full summaries of what the purchase was for should also be provided by the department, if

not clear from the invoice. Invoices will then be entered in MUNIS for approval by appropriate parties (department directors, Finance Department, Purchasing Division, etc.).

Please note that an inability to provide proper approval and coding in a timely manner may be grounds for purchasing limitations placed on the department by the Purchasing Division or disciplinary measures as deemed necessary by the city manager. Invoices typically indicate a remittance timeline and fees for late payment. Accounts Payable typically cuts checks for invoice payment on Fridays (EFT payments clear the following Wednesday), and the invoice approval process by other approvers can take several days as well. Quick coding and approval by the department that received the good or service will reduce their part in any payment delays.

3.5 ELECTRONIC FUND TRANSFER REQUIREMENTS & VENDOR SETUP

It is the City's standing policy that all payments must be processed via electronic fund transfer (EFT) whenever possible and all POs be sent via email. Exceptions can be made in the case of emergencies, but all new vendors must have EFT information, W9 Forms, and email contact information submitted to be made active in MUNIS. Any vendor who refuses to provide such information may be ineligible to conduct business with the City. The City's EFT Form for vendors can be found in Appendix H.

Vendors may either register themselves through Vendor Self Service (VSS) or by emailing needed documentation to purchasing@newark.de.us. The VSS webpage can be found at <https://cityofnewarkdevendors.munisselfservice.com/>. Only the Purchasing Division can make vendor modifications in MUNIS. Once a vendor is registered with the City and provides all required information, they will be made active in MUNIS and eligible for authorized departmental personnel to put in purchase requisitions for the vendor.

It is important that all departments promptly submit any vendor EFT changes to the Purchasing Division if the information does not come to the Purchasing Division directly. Any outdated information may delay eventual payments and cause accounting difficulties. If any vendor sends unprompted EFT change requests to the Purchasing Division, the following steps shall be taken by the Purchasing Division to confirm the request is legitimate and not a malicious attempt to change a vendor's banking information to a fraudulent account:

- The Purchasing Assistant will confirm the change request was not prompted by an employee within a department that does regular business with the vendor.

- If another employee did reach out to the vendor for an update, the Purchasing Division will confirm the information received was from the same vendor contact the employee reached out to.
- If the change request was not prompted by another City employee, the Purchasing Assistant will reach out to a different contact from the vendor that did not send the request to confirm the request's legitimacy.
- The Purchasing Assistant will update the vendor information if confirmed to be legitimate or will reject the update request if illegitimate. If illegitimate, IT Infrastructure will be informed to block the sender's email address.

SECTION 4: CREDIT CARD USE AND MANAGEMENT

The City of Newark utilizes credit cards to expedite procurement of certain goods and services, adhere to vendor requirements, and ensure day-to-day purchases are not constrained by multi-departmental approval processes. The City's credit card policy is designated to ensure compliance with applicable laws and regulations, promote accountability, and prevent misuse of public funds. This policy applies to all employees who are authorized to use credit cards for public procurement on behalf of the City. Cardholders shall be designated by department directors, the Finance Director, and head of the Purchasing Division. Typically, these cards are provided to supervisors or managers, but the occasional administrative employee may be tasked with credit card responsibilities also. City cardholders shall be responsible for purchases on their cards even if claims arise that someone else in their department used the card—providing cards to other employees can be a liability in this regard.

There are two primarily recognized credit card vendors for the City of Newark: Fulton Bank (for general purchases) and Home Depot (for project-specific purchases). Select employees also hold Acme grocery store credit cards. Some staff members may request or be requested to hold one or all of these cards. As of 2024, employees who have a City credit card issued in their name do not have applicable cards show on their credit reports. The City has protocols in place to ensure that monthly statements are paid on time, so such credit impacts would be nonexistent even if reflected on staff members' credit reports.

In order for an employee to have a City credit card, they must sign the Credit Card Responsibility Statement (see Appendix I). Any employee that refuses to sign the statement or revokes their agreement at any point during employment shall have their credit card canceled and need to go through the formal purchase order process for all purchases. The City reserves the right to terminate any employee's credit card at any time. However, continued personal or otherwise unauthorized credit card charges on any employee's credit card (defined as two times within a rolling twelve month period) is likely to result in a one-month suspension of an employee's credit card and may result in the termination of the card altogether.

All purchases made up to \$300 on both the City's Fulton Bank and Home Depot credit cards are treated as blanket purchases. For Home Depot, daily purchases of value up to \$500 that are for existing capital improvement projects (CIPs) can be made without a purchase order. Purchases over the stated blanket amount can be made on a credit card so long as the formal purchase order process is completed and the credit limit on the employee's card can cover such cost. If an employee's card does not allow for a purchase of certain value, the Purchasing Division or Finance Department may be able to complete the purchase for the requesting department (assuming limits allow) or request credit limit increases on behalf of the employee.

SECTION 5: REQUESTS FOR QUOTATIONS (RFQs) **AND PURCHASING THRESHOLDS**

5.1 REQUEST FOR QUOTATIONS PRACTICES AND APPLICATIONS

A request for quote (RFQ) is a procurement method used for purchases that are less complex and costly than those outlined in the invitation to bid (ITB) and request for proposal (RFP) sections below. RFQs typically do not require lengthy specifications or detailed drawings and utilize price as the main determinant of award. RFQs can also be useful during budget preparation in determining the cost of a good or service for budget estimations.

When used for a purchase, RFQs should be reasonably distributed to all possible vendors for the service or good solicited. This means RFQs can be posted to the City website, outlined on a common website for vendors of a certain good/service (i.e., electric equipment posted to AURSI), or distributed via mail or email to vendors who can complete required work within a certain distance of the City of Newark.

Each department should maintain a template for RFQs, which will act to streamline the preparation of related requests (the Purchasing Division can provide examples of past RFQs if requested). There is no universal standard form for departments to use for RFQs, as this is a less formal process than ITBs/RFPs and can differ drastically from department to department. As such, these requests do not have to be routed through the Purchasing Division for distribution. However, the Purchasing Division must be copied on correspondences when RFQs are distributed and the Division must receive copies of all quotes gathered through an RFQ process. Additionally, when RFQs are distributed to vendors, it must be made clear to the vendors that they are minimally required to abide by the City's Minimum Vendor Provisions for Purchases and Contractual Services outlined on the Purchasing Division's webpage (www.newarkde.gov/105/purchasing).

Completing an RFQ in no way requires the City to enter into a contract with a vendor, but is required to enter into an agreement if the purchase is above the noted purchasing thresholds for an RFQ and waiving the bid process is not an option (see below). However, RFQs are a useful tool to efficiently and accurately relay City needs to vendors and obtain costs associated with certain scopes of work when ITBs and RFPs are not required.

Please note that RFQs are required for material purchases, non-professional services, and professional services valued between \$35,000 and \$49,999.99. If the estimated value of a purchase is less than the RFQ threshold, but could potentially exceed \$35,000, an RFQ

should still be created and distributed. Also, RFQs are required for “public works” purchases valued between \$75,000 and \$99,999.99. If the estimated value of a purchase is less than the RFQ threshold, but could potentially exceed \$75,000, an RFQ should still be created and distributed.

Definitions for material purchases, non-professional services, professional services, and “public works” purchases are outlined in Section 5.2 below.

5.2 PURCHASING METHOD VALUE THRESHOLDS

The required procurement method value thresholds referenced in Section 5.1 above are as follows:

Material Purchases, Non-Professional Services, and Professional Services

- | | |
|----------------------------|---|
| • Less than \$10,000: | Open Market purchase |
| • \$10,000 to \$24,999.99: | 2 written quotes required |
| • \$25,000 to \$34,999.99: | 3 written quotes required |
| • \$35,000 to \$49,999.99: | Formal Request for Quote (RFQ) process* |
| • \$50,000 to \$99,999.99: | Formal bid and Council approval process
(consent agenda) |
| • \$100,000 and over: | Formal bid and Council approval process
(staff presentation) |

“Public Works” Purchases

- | | |
|------------------------------|---|
| • Less than \$25,000: | Open Market purchase |
| • \$25,000 to \$49,999.99: | 2 written quotes required |
| • \$50,000 to \$74,999.99: | 3 written quotes required |
| • \$75,000 to \$99,999.99: | Formal Request for Quote (RFQ) process |
| • \$100,000 to \$149,999.99: | Formal bid and Council approval process
(consent agenda) |
| • \$150,000 and over: | Formal bid and Council approval process
(staff presentation) |

See Appendix J for the above purchasing method value threshold information visualized in a flow chart.

Open market purchases are purchases that are left to the discretion of an individual department or agency. These types of purchases are usually reserved for smaller, day-to-

day needs that are not already covered under an existing contract through a formal procurement method.

Material purchases and non-professional services are classified as purchases in which the additional vendor requirements beyond providing a basic good or service are minimal or nonexistent (i.e., the purchase is for a specific good that is clearly defined or for a less technically intensive service with defined expectations). Examples of contracts in this category are landscaping services and “off the lot” vehicle purchases.

Professional services are defined as “services which generally require specialized education, training or knowledge and involve intellectual skills. Examples of professional services include, but are not limited to, engineering,... consultants,... accounting, auditing, construction management, and arbitration [and other legal] services.” These purchase types are usually handled via the Request for Proposal (RFP) process if the anticipated cost of the service may exceed Council’s approval threshold. The RFP process is qualifications-based as opposed to low bid because in these areas the low bidder may not be the best choice due to unique knowledge, skills, or abilities of specific firms or individuals.

“Public Works” purchases are defined by the State of Delaware as “construction, reconstruction, demolition, alteration and repair work and maintenance work paid for, in whole or in part, with public funds.” Most “public works” purchases are typically more costly due to the technically rigorous and material and/or labor-intensive nature of these projects. It is important to note that “public works” as outlined through the State would encompass some Newark Public Works & Water Resources, Electric, Parks & Recreation, and Facilities projects, since each department is responsible for some specific infrastructure and/or construction projects periodically.

In 2021, the City Solicitor provided an opinion that projects that fall into the following definition are eligible to follow the “public works” purchasing thresholds:

“Public works are a broad category of infrastructure projects, financed and constructed by the government, for recreational, employment, and health and safety uses in the greater community. They include public buildings (municipal buildings, schools, hospitals), transport infrastructure (roads, railroads, bridges, pipelines, canals, ports, airports), public spaces (public squares, parks, beaches), public services (water supply and treatment, sewage treatment, electrical grid, dams), and other, usually long-term, physical assets and facilities. Though often interchangeable with public infrastructure and public capital, public works does not necessarily carry an economic component, thereby being a broader term.”

SECTION 6: INVITATIONS TO BID (ITBs)

6.1 DEFINITION AND USES

An **invitation to bid (ITB)** is a formal procurement process used when project needs are clearly defined and understood to both staff and prospective bidders. As such, the primary determinants for ITBs are price and vendor experience, meaning the City will always aim to award a contract based on an ITB to the lowest responsible bidder. The purpose of an ITB is to provide standardized information to different bidders, creating a competitive bidding process for all interested parties. Sealed bidding ensures fair competition and equality required by public procurement standards.

Procurement of material purchases, professional services, or non-professional services equal to or expected to exceed \$50,000 (or \$100,000 for “public works” purchases) must be fulfilled through formal ITB development and public request for sealed bids regardless of the funding source. (See Section 5 for definitions of material purchases, non-professional services, professional services, and “public works” purchases.) Completing an ITB in no way requires the City to enter into a contract with a vendor, but is required to enter into an agreement if the purchase is above the noted purchasing method value threshold and waiving the bid process is not an option.

6.2 ITB DOCUMENT REQUIREMENTS & PROCESS

The first step in the ITB process is to complete the Request for ITB/RFP Number Assignment Request Form, which can be found in Appendix K. This form is submitted to both the Purchasing Division and Finance Department and denotes the purpose of the ITB, the department’s cost estimate, anticipated timeline for completion of the purchase or service, the funding source to be used, and the funding available. The Finance Department will verify that the cost estimate and funding source are realistic and accurate, respectively, and the Purchasing Division shall assign an ITB number for the project. Each ITB receives a unique number identifier to track the bid document over the course of the process and ensure finding the information on the document later is seamless. The four-digit unique number identifier begins with the last two digits of the current year and numerically adds the final two digits. So, the third ITB of the year 2024 would be denoted as ITB No. 24-03.

The development of an ITB requires that bid documents be prepared. These documents should always do the following:

- Identify minimum bidder requirements;
- Allow for a competitive and public bid;
- Be capable of objective review;
- Provide for an equitable award to the most responsible low bidder;
- Establish timelines for delivery of goods or services; and
- Establish criteria for contract award.

The preparation of the ITB is initially the responsibility of the department requiring the equipment or service. The Purchasing Division will assist in this process, provide edits and/or comments as needed, and evaluate all ITB documents for final approval before advertising to ensure that all sections are accurate and consistent with City code, style, and procedure. It is required that departments submitting ITBs for final review and advertisement provide the Purchasing Division at least ten (10) business days to complete such review of all associated documents in between other duties.

6.3 ITB ITEMS

ITBs shall include, but not be limited to, the following:

- **Notice of Letting:**
Announces the ITB, bid deadline, questions/requests for information deadline, any pre-bid meeting information, and other required information. The City is required to publicly advertise the Notice of Letting; this advertisement is handled by the Purchasing Division and typically is done through The News Journal.
- **General Provisions:**
Outlines general contractual requirements bidders must agree to as part of their bid, including required liability insurance coverage amounts and other boilerplate items.
- **Scope of Work:**
Provides prospective bidders an outline of the good or service to be procured. This could include the frequency or volume of work to be completed, the area in which the work will be completed, or other pertinent information that is not boilerplate in nature. The department requesting the ITB is solely responsible for putting the scope of work together, as this section draws upon the individual department's expertise.

- **Technical Specifications:**
Provides prospective bidders detailed information on the good or service requested. This could include quantity amounts and sizes for materials, options for alternates, etc. The department requesting the ITB is solely responsible for putting technical specifications together, as this section draws upon the individual department's expertise.
- **Proposal:**
Offers the bidder a place to insert their bid for the specific ITB. The Purchasing Division uses vendors' submitted totals for each bid line to determine the bidder's total bid amount. The proposal section includes the submitted bid, non-collusion agreement, references, subcontractors list, and bond to accompany the bid.
- **Bid Bond/Bid Security:**
Outlines that the ten percent (10%) bid bond required for ITBs is valid and included (this ensures the bidder has a vested interest in the bid they are submitting). A cashier's check or certified check in the same amount is acceptable as an alternative to bid bond. The Purchasing Division may reject any bids due to lack of bid security. The check or bid bond of the bidder to whom the contract is awarded will be forfeited to the City of Newark as liquidated damages in the event that the contract and performance bond are not executed within the set number of calendar days after receiving the official notification of award noted in the ITB.
- **Surety/Performance Bond:**
Denotes that a surety bond in the full amount of the contract is required from the successful bidder as part of the final contract. If the awarded bidder fails to provide such a bond within the set number of calendar days after receiving the official notification of award noted in the ITB, the award of the contract may be deemed void and the bid bond forfeited to the City as liquidated damages. In certain circumstances, a performance bond may be required as part of the ITB depending on the scope of work and value of the service being performed.
- **Retainage:**
All construction contractors are subject to retainage for the project in the amount of five percent (5%) of the contract value. Upon successful completion of the project and all punch list items, subject to inspection by City staff, the project will be considered complete and the retainage will be disbursed to the contractor.

Appendix L provides a template of a typical ITB, which departments can use as a guideline to streamline the ITB development process.

6.4 BIDDERS LIST

The department requesting an ITB shall develop, log, and maintain a list of possible vendors that shall receive bid documents directly as well as any addenda, unofficial bid results, or other ITB documents. The Purchasing Division shall not look up these vendors for the requesting department and all correspondences will be sent via email through contracts@newark.de.us. If there is pre-bid meeting (mandatory or non-mandatory), the list of attendees shall be included in a ITB addendum and will be added to the official bidders list for the purposes of addressing requests for information on this subject moving forward.

6.5 ADDENDA

Each ITB must have a specified deadline for questions/requests for information associated with the bid. If any of the questions require response on behalf of the City, they must be answered via ITB addendum. An addendum must also be issued whenever the bid documents are necessarily modified, edited, and/or corrected. In other words, while the City aims to have all ITB documents in perfect condition when they are publicly posted, the posted version of the contract can be updated while the ITB is out to bid. Best practice is to set the deadline for questions at least two (2) full weeks before the bid submission deadline to allow staff to complete and distribute addenda and allow vendors time to modify their bids based on updated information. Only the Purchasing Division shall answer bidder questions while the ITB is out to bid, and such correspondences will only be shared through publicly available addenda; no employee outside of the Purchasing Division is authorized to answer bidder questions prior to the bid opening date.

6.6 BID OPENING

The deadline for all ITBs shall be clearly denoted in the contract documents and all addenda. The bid deadline is always set on a Tuesday at 2:00 p.m., unless otherwise approved by the Purchasing Division. The Purchasing Division shall be responsible for receiving all bids from vendors and publicly recording the bids into a record maintained by the City Secretary's Office after the bid deadline. The vendor names and total bid price will be listed at the time of recording. Following the bid opening, the Purchasing Division will post the unofficial bid opening results on the City's webpage for bids (www.newarkde.gov/bids) and begin working with the department requesting bids for next steps. The unofficial bid results are considered unofficial at this time since these bids are unvetted by staff and unapproved by City Council at the time of the bid opening.

6.7 AWARDING AND EXECUTING A CONTRACT

Once the department requesting the ITB decides upon the lowest responsible bidder for the ITB, the department shall complete a recommendation to award a contract that will be presented to City Council for approval. Section 9 outlines the process taken for this recommendation. The department requesting the ITB shall be responsible for coordinating time on a City Council meeting agenda with the City Secretary's Office as well as confirming at least the head of the Purchasing Division, the Finance Director, and the city manager (or their designees) co-sign the recommendation memo. The department director for the department requesting the ITB shall present the memo to Council.

Following Council approval, the Purchasing Division will send an acceptance letter to the awarded bidder along with a contract agreement, vendor registration forms, and surety bond form to be filled out and returned. Once the contract agreement, surety bond, vendor forms, and updated certificate of insurance are received and verified by the Purchasing Division, the contract shall be executed and the department requesting the ITB can formally begin coordinating next steps with the awarded vendor. After the contract execution, the Purchasing Division shall also send rejection notices to bidders who were unsuccessful in the bid process.

6.8 CHANGE ORDERS

After a contract is awarded and a project or order is underway, if it becomes necessary to add project/order items or expand the original scope of work because of unforeseen findings, a scheduling change, or leverage of remaining funds, a change order can be issued, pending city manager approval. The city manager can approve change orders on select contracts without City Council approval, up to the thresholds outlined below when City Council approval becomes required:

Contract Value	Council Approval Required When
\$50,001.00 to \$150,000.00	The change order is greater than 8% or \$10,000.00, whichever is higher.
\$150,001.00 to \$250,000.00	The change order is greater than 6% or \$15,000.00, whichever is higher.
\$250,001.00 to \$500,000.00	The change order is greater than 5% or \$20,000.00, whichever is higher.
\$500,001.00 and over	The change order is greater than 4% or \$30,000.00, whichever is higher.

The City received legal opinion in the 2010s that the official contract value is the current value of the contract, inclusive of prior change orders. For example, if a contract valued at \$100,000 has a change order of \$10,000, determining approval necessity for a second change order would be judged against the new contract value of \$110,000 instead of the original \$100,000. Piecemeal change orders to increase a contract's value and circumvent City Council approval are not advisable and will be flagged as inappropriate by the city manager, Purchasing Division, or Finance Department.

6.9 PREVAILING WAGE/DAVIS-BACON REQUIREMENTS

Prevailing wage requirements are a necessary consideration when creating ITBs for projects that receive applicable federal or state funding. Prevailing wage laws require that workers on these projects be paid a certain minimum wage rate that is established by the State or Federal Government. The Delaware Department of Labor maintains state prevailing wage rate tables and guidelines, while the Federal Government also has prevailing wage requirements set forth through the Davis-Bacon Act. For federally funded projects, whichever Delaware or federal rate is higher for the workers involved in a project becomes the standard for the ITB if the project cost estimate exceeds the threshold for Davis-Bacon requirements. Delaware State-funded projects are typically only constrained by Delaware prevailing wages over the mandated threshold. For more information on when prevailing wage rates are required for state or federally funded projects, visit the U.S. and Delaware Department of Labor webpages, or reach out to the Purchasing Division.

ITBs that are subject to prevailing wage requirements must include language that clearly outlines the prevailing wage rates that will be paid to workers on the project. This information should be based on the most current prevailing wage determinations found on Department of Labor webpages at the time the ITB will be advertised.

In addition to specifying the wage rates that will be paid, ITBs using state or federal funding also need to include provisions for reporting and record-keeping related to prevailing wage compliance. This includes requirements for contractors to submit certified payroll records, to maintain accurate records of hours worked by employees, and to provide documentation of fringe benefits that are provided to workers.

Failing to comply with prevailing wage requirements can result in financial penalties and legal liabilities for contractors and the City, so it is important to carefully review and understand the applicable prevailing wage laws before completing an ITB using state or federal funding. Any questions related to prevailing wage should be referred to the Purchasing Division prior to an ITB being advertised.

SECTION 7: REQUESTS FOR PROPOSALS (RFPs)

7.1 DEFINITION AND USES

The Request for Proposal (RFP) method may be utilized when determined by the Purchasing Division that the use of an ITB or standard sealed bid process is either not practical or not in the best interest of the City. In general terms, RFPs must be used when the professional service with vague or uncertain completion metrics pursued is more extensive than a non-professional service, “public works” purchase, or material purchase with clearly defined completion metrics, and the estimated cost reaches the purchasing method value threshold for Council approval noted in Section 5 (\$50,000). The City of Newark additionally must follow procedures set forth in Chapter 69 of the State of Delaware Code as it relates to RFPs.

RFP documents are completed by the department procuring professional services and submitted to the Purchasing Division for review, distribution, and advertisement. Following distribution of the RFP on the City’s website at www.newarkde.gov/bids, the department that drafted the RFP will submit a bidders list to the Purchasing Division so qualified professionals can be directly sent the RFP document as an invitation to submit a proposal. In securing professional services, it is the primary goal of the City to obtain services from vendor(s) that have proven records of offering such services in a professional and responsible manner.

Costs for professional services rendered are not the primary criterium for selecting a vendor, and prices for associated services must be separately submitted from the proposal so no consideration of cost is considered during the initial review process (more below).

Completing an RFP in no way requires the City to enter into a contract with a vendor, but is required to enter into an agreement if the purchase is above the noted purchasing method value thresholds and waiving the bid process is not an option.

7.2 PROFESSIONAL SERVICES PROVISIONS IN STATE LAW

Delaware State Code Title 24, Chapter 28, Section 2822 provides an elaborate structure for the licensure and employment of professional engineers. Following this section, when the City receives proposals for or engages in the construction or operation of “public works” projects, the retained engineer must be authorized to practice engineering or such

work should be executed under the supervision of an engineer who is registered to practice within the State of Delaware. Prior to the hiring of any firm for the provision of professional services, care should be taken to evaluate the exact work being performed and, when applicable, all provisions of State Code shall be followed. Any contract executed in violation of this section of State Code is null and void.

7.3 RFP DEVELOPMENT PROCESS

The first step in the RFP process is to complete the Request for ITB/RFP Number Assignment Request Form, which can be found in Appendix K. This form is submitted to both the Purchasing Division and Finance Department and denotes the purpose of the RFP, the department's cost estimate, anticipated timeline for completion of the purchase or service, the funding source to be used, and the funding available. The Finance Department will verify that the cost estimate and funding source are realistic and accurate, respectively, and the Purchasing Division shall assign an RFP number for the project. Each RFP receives a unique number identifier to track the bid document over the course of the process and ensure finding the information on the document later is seamless. The four-digit unique number identifier begins with the last two digits of the current year and numerically adds the final two digits. So, the third RFP of the year 2024 would be denoted as RFP No. 24-03.

The preparation of an RFP is initially the responsibility of the department requiring the professional service, as the department will be most knowledgeable of their needs and the requirements of the selected contractor(s). The Purchasing Division will assist in this process, provide edits and/or comments as needed, and evaluate all RFP documents for final approval before advertising to ensure that all RFP sections are accurate and consistent with City code, style, and procedure. It is required that departments submitting RFPs for final review and advertisement provide the Purchasing Division at least ten (10) business days to complete such review of all associated documents in between other duties.

7.4 RFP ITEMS

The following topics are those that make up each RFP document. Certain modifications can be made in concert with the Purchasing Division, but the general format below should typically be followed:

- A. NOTICE OF LETTING: The notice should outline the proposal submission deadline, how proposals and separately sealed basis for fees/budget proposal documents shall be submitted, when any pre-bid meetings shall be held, and the deadline for questions/requests for information associated with the RFP.
- B. PURPOSE AND OVERVIEW: This section should briefly indicate why the City is procuring the services outlined in the RFP and what staff is looking for from proposals.
- C. MINIMUM VENDOR AND PROPOSAL QUALIFICATIONS: This section outlines the minimum amount of information staff is asking vendors to submit with their proposal to better understand the firm's structural and experience. The information requested through this section includes, but are not limited to:
 - a. Vendor's name and contact information;
 - b. Brief history of the firm and organizational structure, location, etc.;
 - c. Descriptions of similar work completed that is comparable to the work requested;
 - d. Specific examples of previous work that is comparable to the work requested;
 - e. References the City may contact for verification of the vendor's previous performance;
 - f. Time frame in which the vendor can/will complete the project;
 - g. The capacity of the vendor to complete the project (staffing, financial standing, ordinance requirements, etc.);
 - h. Any litigation in the past three (3) years wherein the vendor was found at fault for services related to the RFP project;
 - i. Statement indicating no conflicts of interest in the proposal;
 - j. Separately submitted basis for fees/budget proposal documents;
 - k. Cyber security and other liability insurance coverages required;
 - l. Other items that may arise as a result of the proposal or interview process; and
 - m. Any additional information the vendor feels would be beneficial for staff's review of the proposal.
- D. GENERAL PROVISIONS: This section outlines general contractual requirements vendors must agree to as part of their proposal, including required liability insurance coverage amounts and other boilerplate items.

- E. SCOPE OF SERVICES: This section shall outline the specific services the department needs the chosen vendor to perform to be successful in completing the project. The department requesting the RFP is solely responsible for putting the scope of services together, as this section draws upon the individual department's expertise.
- F. EVALUATION CRITERIA: The RFP must indicate the relative importance of specifically defined evaluation factors. Such criteria importance should be indicated with a possible point range; all initial evaluation criteria points must add up to 100 points. An additional 25 is available to vendors who are invited back for presentations as a second round.
- G. EVALUATION COMMITTEE: Within the RFP, the specific positions of those who will be reviewing the RFP (or their designees) must be included so vendors may tailor their proposals accordingly.
- H. PRESENTATIONS: Typically, the vendors with the highest ranked proposals will be asked to prepare and give a presentation to the evaluation committee. The department requesting the RFP shall typically be responsible for scheduling such presentations.
- I. BASIS FOR FEES/BUDGET PROPOSAL SUBMISSION: This section shall outline how the separately submitted financial components of the proposal shall be delivered. Again, to separate the financial and other aspects of the proposal, anything cost-related must be distinct from the main proposal. These separately sealed documents shall only be opened once a top one or two vendor(s) are determined to verify nothing stands out as inconsistent with staff's anticipated cost range.
- J. RFP TIMELINE & DEADLINE FOR SUBMISSION: This section shall simply indicate when and how vendors should submit their proposals and questions. If applicable, this section shall also indicate any pre-submission meetings with City staff. The Purchasing Division prefers submissions be provided via email to reduce paper waste and mail-related issues, but physical copies can still be requested by the department if preferred (the number of copies requested should be equal to the number of evaluation committee members plus one copy for the Purchasing Division's records).

Appendix M provides a template of a typical RFP, which departments can use as a guideline to streamline the RFP development process. Appendix N provides the standard template for an RFP review committee's scoresheet for the ranking of vendor proposals.

7.5 BIDDERS LIST

Identical to the process for ITBs, the requesting department shall develop, log, and maintain a list of possible vendors that should receive RFP documents directly as well as any addenda, unofficial results, and/or other contract documents. The Purchasing Division shall not look up these vendors for the requesting department and all correspondences will be sent via email through contracts@newark.de.us. If there is a pre-submission meeting (mandatory or non-mandatory), the list of attendees shall be included in an addendum to the RFP and will be added to the official bidders list for the purposes of addressing requests for information on this subject.

7.6 ADDENDA

Each RFP must have a specified deadline for questions associated with the contract. If any of the questions require response on behalf of the City, they must be answered via contract addendum. An addendum must also be issued whenever the RFP documents are necessarily modified, edited, and/or corrected. In other words, while the City aims to have all RFP documents in perfect condition when they are publicly posted, the posted version of the RFP can be updated while out to bid. Best practice is to set the deadline for questions at least two (2) full weeks before the bid submission deadline to allow staff time to complete and distribute addenda and allow vendors time to modify their proposals based on updated information. Only the Purchasing Division shall answer vendor questions while the RFP is out to bid, and such correspondences will only be shared through publicly available addenda; no employee outside of the Purchasing Division is authorized to answer vendor questions prior to the submission deadline.

7.7 PROPOSAL OPENING

The deadline for all proposals shall be clearly denoted in the RFP document and all addenda. The proposal deadline is always set for a Tuesday at 2:00 p.m., unless otherwise approved by the Purchasing Division. The Purchasing Division shall be responsible for receiving all proposals from vendors and publicly recording the names of the submitters into a record maintained by the City Secretary's Office after the deadline. Following the proposal opening, the Purchasing Division will post the unofficial results (names of submitters only) to the City's website (www.newarkde.gov/bids) and begin working with the department requesting proposals for next steps.

7.8 AWARDING AND EXECUTING A CONTRACT

Once the review committee completes their review and interviews the top-ranked vendors (if required) for the RFP, the department requesting the RFP shall complete a recommendation to award a contract that will be presented to City Council for approval. Section 9 outlines the process taken for this recommendation. The department requesting proposals shall be responsible for coordinating time on a Council meeting agenda with the City Secretary's Office as well as confirming at least the Purchasing Division, Finance Director, and the city manager (or their designees) co-sign the recommendation memo. The department director for the department requesting proposals shall present the memo to Council.

Following Council approval, the Purchasing Division will send an acceptance letter to the awarded vendor along with a contract agreement and vendor registration forms to be filled out and returned. Once the contract agreement, vendor forms, and updated certificate of insurance are received by the Purchasing Division, the contract shall be executed and the department requesting the proposal can formally begin coordinating next steps with the awarded vendor. After the contract execution, the Purchasing Division shall also send rejection notices to vendors who were unsuccessful.

7.9 CHANGE ORDERS

After a contract is awarded, if it becomes necessary to add items or expand the original scope of services because of unforeseen findings, a scheduling change, or leverage of remaining funds, a change order can be issued, pending city manager approval. The city manager can approve change orders on select contracts without City Council approval, up to the thresholds outlined in Section 6.8 when City Council approval becomes required.

SECTION 8: WAIVING THE BID PROCESS

8.1 OVERVIEW

There are specific rationales available to departments for waiving the formal bid process for the procurement of goods and services over the purchasing method value thresholds requiring Council approval noted in Section 5. Waiving the bid process means that a formal bid process should be required at the purchase price for a specific good or service, but there is sufficient justification to bypass this requirement. Every time a department recommends waiving the formal bid process for a specific purchase over the bid threshold, a City Council recommendation memo must be written and presented to Council to approve the waiver; the department's director is required to write the recommendation memo and have at least the head of the Purchasing Division, the Finance Director, and the city manager (or their designees) co-sign the recommendation.

Newark City Code, Chapter 2, Article II, Section 2-23 calls out the specific circumstances for which a waiver of the standard bid process is allowed. These provisions are outlined on the next page.

8.2 BID WAIVE CRITERIA OUTLINED IN CITY CODE

Sole Source Procurement	
Definition in City Code	“In cases where the city manager or his designee advises the council that it would be useless or inadvisable to solicit bids because of a single source of supply, or because the services required are of a professional nature, the council may waive the requisite of this section and approve the purchase of or contracting for such materials, supplies, equipment, or services without soliciting bids therefor.”
Explanation	Extensive research regarding potential goods and suppliers should always be conducted by City employees ahead of any procurement-related activity. If it is determined through this research that only one vendor exists for the good or service needed, or if the City has previously invested a substantial amount of money in a specific good or service from one successful vendor that would render consideration of other vendors useless, the bid process can be waived (examples: Dell for computers, Advantech for building security). An argument that a purchase was sole source procurement is only valid if sufficient evidence that no other type of material or service will satisfy the City’s specifications is documented and referred to with a purchase requisition or in the staff bid waive recommendation memo to City Council.
Impractical Bid Process or Timeline	
Definition in City Code	“If the city manager or his designee determines that the use of formal bidding is not practical for a particular purchase or contract, the council may waive the requirements of this section.”
Explanation	When going through the bid process would be detrimental or useless for City business, the bid process can be waived (example: very long lead times and/or prices for infrastructure equipment would increase exponentially due to the delay of the bid process). Please note that “impracticality” shall be defined on a case-by-case basis by the Purchasing Division; poor time management on the part of City departments shall not constitute impracticality for any purchase.
Joining an Existing State or New Castle County Contract	
Definition in City Code	“In any case where the city manager or his designee advises the council that it would be advantageous to do so, the council may waive the requisite of this section and authorize the city manager or his designee to purchase such materials, supplies, equipment, or services through existing state or New Castle County purchasing contracts which have been publicly bid on a sealed bid basis and which are in complete accordance with all applicable state and county laws and regulations.”
Explanation	If an existing state contract (e.g., Delaware, Sourcewell) or existing New Castle County (NCC) contract already offers Newark the good/service a department aims to procure, the bid process may be waived as a public bid process has already been satisfactorily completed (e.g., purchasing fleet vehicles off State of Delaware contracts). <u>Any</u> state contract may be utilized, but NCC is the only county contract available to Newark.

SECTION 9: CITY COUNCIL PROCUREMENT

RECOMMENDATION CHECKLIST

As outlined in City Code, all material and service purchases equal to or greater than \$50,000 (or “public works” purchases equal to or greater than \$100,000) require the direct approval of City Council. Material and service purchases between \$50,000 and \$99,999.99 (or “public works” purchases between \$100,000 and \$149,999.99) can be added to a City Council meeting’s consent agenda, which will be batched together with other consent agenda-eligible Council meeting items for bulk approval without staff presentation. Any material or service purchases equal to or greater than \$100,000 (or “public works” purchases equal to or greater than \$150,000) must be formally presented by staff and voted on by Council as a separate item at a City Council meeting.

Below is a list of items relating to the procurement recommendation memo format as well as the information required:

- All recommendation memos should be in memo format (see the [City Brand Guidelines](#) for details).
- Memos should be addressed as follows:
 - To: Honorable Mayor and Council
 - From: The department director or designee
The head of the Purchasing Division or designee
The Finance Department director or designee
Any other person involved in the purchase
 - Via: The city manager or designee
- Each person listed in the “From” category above, as well as the city manager, must initial beside their name on the memo to indicate they co-sign the recommendation.
- The subject of the memo should have one of two titles:
 - “Recommendation to Award a Contract Stemming from ITB/RFP [number]—[title of ITB/RFP]”
 - “Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark for the Purchase of [items/service being purchased]”

NOTE: If the ITB/RFP being awarded or bid-waived agreement is using money from a Capital Improvement Project, the following must be included at the end of the subject line: “(for CIP [project number])”

- In the **BACKGROUND** section, a brief history of the project should be outlined, including an explanation of the need for the purchase and why staff chose now to act.
- Under **BID/PROPOSAL REVIEW PROCESS**, the dates the Purchasing Division advertised the ITB/RFP in The News Journal must be included. A list of all bidding/proposal-submitting vendors for the ITB/RFP needs to be incorporated as well. For ITBs, the bid prices submitted by vendors should be added to provide additional context. This section does not apply to bid waive requests.
 - For RFPs specifically, it should be made clear that the Purchasing Division received separately sealed basis for fees documents to assure Council and the public that the recommendations are based on merit alone. Additionally, a list of the RFP review committee members must be noted along with the averaged scores the committee submitted for each vendor's proposal.
- If there was no ITB or RFP process completed for the purchase being recommended, the **BID WAIVE CRITERIA** section takes the place of the "Bid/Proposal Review Process" section. In this section, it should be clearly explained that staff is recommending waiving the bid process for one of the reasons outlined in Section 8.2 of this manual. The specific section of City Code used as well as a brief write-up on why this justification is used must be included here.
- In the **FUNDING** section, an explanation of where the funding is coming from is required (e.g., an account number or CIP project number). If funding is insufficient to complete the purchase, a budget amendment recommendation outlining where the additional funding will come from must be included here as well. The Finance Department director will confirm this section is complete and all funding sources are appropriate and available.
- Under **RELATED DOCUMENTS**, a list of all documents relevant for the award/bid waive recommendation is required. This includes vendor quotes/bids, CIP sheets as approved by Council, proposed CIP sheet modifications (if needed), pictures of the equipment being purchased (if applicable), and any other forms needed to adequately provide background for the purchase recommendation. All documents must be included with the recommendation when submitted to the city manager and City Council.
- In the **RECOMMENDED MOTION** section, the text of the motion Staff is asking Council to make should be written out. Two possible examples are:
 - "I move that Council award a contract stemming from ITB/RFP [number and title] to [vendor/contractor name and location] in the amount of [dollar figure]."
 - "I move that Council waive the bid process in accordance with the Code of the City of Newark for the purchase of [item(s)/service being purchased] from [vendor/contractor name and location] in the amount of [dollar figure]."

For examples, please reference approved recommendation memos from previous Council meetings at the City's webpage for bids (www.newarkde.gov/bids).

SECTION 10: CYBER SECURITY AND LIABILITY INSURANCE COVERAGE

10.1 OVERVIEW

Like many other governmental entities across the country, the City of Newark continually procures contractual labor and services. Consequently, Newark must ensure that contractors have liability insurance coverages sufficient to cover the City from insurance claims stemming from contractors' services. While the City of Newark has its own liability insurance coverages in place, these coverages account for daily City business and may not be satisfactory to cover claims from third party vendors. As such, ensuring these coverages are in place for vendors before, during, and for a period after services commence protects the City from potential claims for which Newark is not responsible.

Areas of primary concern for liability insurance ebb and flow over time as trends and vulnerabilities change. For instance, cyber liability insurance was a niche and inexpensive coverage in the early 2000s but is now one of the most important, expensive, and difficult to obtain coverages for many organizations. The below liability coverage areas are among the most commonly required of contractors:

Coverage Line	Description
Auto Liability	Protects the policyholder in cases where one of their drivers and/or vehicles causes injury to a third-party individual or damage to a third party's property in an auto accident.
Crime Liability	Protects the policyholder from significant losses caused by malignant action taken by third parties or employees. This covers the agency from loss of money or other assets lost from theft, fraud, forgery, burglary, etc.
Data Breach/ Cyber Liability	Protects the policyholder when sensitive information is stolen, released, disseminated, altered, or destroyed. This includes both electronic information and physical documents.
General Liability	Protects the policyholder if their services, operations, and/or products causes injury to a third-party individual or damage to a third party's property. This coverage covers non-professional negligent acts.
Pollution/ Environmental Liability	Protects organizations from unexpected pollution exposures or other damage from hazardous waste materials that are not covered by standard casualty and property policies.
Professional Liability	Protects service providers if an error or negligence causes damage or harm to a third party. Also called Errors and Omissions (E&O) insurance.
Umbrella/ Excess Liability	Provides additional liability protection by covering costs that go beyond other liability coverage limits; this coverage takes over when other liability coverage limits have been reached.
Workers' Compensation/ Employer's Liability	Provides coverage for medical treatments, lost wages, and other related expenses when an employee is injured in a work-related accident.

10.2 VENDOR CYBER SECURITY REQUIREMENTS

Depending on the service provided, additional requirements must be established with contractors before work begins to set expectations for protecting data and what to do when data is breached. In addition to protecting City information and infrastructure, protecting personal identifiable (PII) is of the utmost importance when data pertaining to financials, employees, or residents is involved. More information on what is required can be found in Appendix O.

10.3 LIABILITY INSURANCE RISK MATRIX

The below matrix outlines the generally accepted risk assumptions for different liability areas by service type, not all of which may be applicable to Newark at a given time. ITBs, RFPs, RFQs, or other agreements must outline the vendor's required liability insurances for each of these coverage types. For any agreements for services with "LOW" liability risk/exposure shown in the table below, tier 1 insurance requirements are needed, as outlined in Appendix O; those with "MODERATE" liability exposure must use tier 2 insurance requirements; those with "HIGH" liability exposure must use tier 3 insurance requirements. If "NONE" is listed for any specific area, no coverage is needed. Departments must work with the Purchasing Division if exceptions are requested.

Industry	Exposure Level by Coverage Type						
	Auto Liability	Crime	Data Breach/ Cyber	General Liability	Pollution	Professional Liability/E&O	Workers' Comp
Architectural/Engineering	LOW	LOW	LOW	LOW	MODERATE	HIGH	LOW
Construction	HIGH	LOW	LOW	HIGH	HIGH	MODERATE	HIGH
Financial Services	LOW	HIGH	HIGH	LOW	LOW/NONE	HIGH	LOW
Janitorial	LOW	MODERATE	LOW/NONE	MODERATE	MODERATE	LOW	MODERATE
Landscaping - Grounds	MODERATE	LOW	LOW/NONE	MODERATE	MODERATE	LOW	HIGH
Landscaping – Trees	MODERATE	LOW	LOW/NONE	HIGH	LOW	LOW	HIGH
Pole Work (Electric)	MODERATE	LOW	LOW	HIGH	LOW	LOW	HIGH
Security (guards)	LOW	MODERATE	LOW	MODERATE	LOW/NONE	MODERATE	HIGH
Technical Services (IT)	LOW	HIGH	HIGH	MODERATE	LOW/NONE	HIGH	LOW